IN THE

Supreme Court of the United States

October Term, 1978

No. 78-631

BILLIE V. BUSH

Petitioner

v.

MAYOR RAY WEBSTER, Et Al.,

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

BILLIE V. BUSH
PRO SE
842 Oakleigh Avenue
Gulfport, MS 39501

Telephone: 601/896-4620

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IN THE
UNITED STATES SUPREME COURT
October Term, 1978
No._____

Billie V. Bush,
Petitioner,

v.

Mayor Ray Webster, et al.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS THE FIFTH CIRCUIT

Petitioner, Billie V. Bush, prays that a Writ of Certiorari issue to review the judgment of United States Court of Appeals Fifth Circuit entered February 17, 1978.

Opinions Below

Judgment of Court of Appeals was without opinion. Memorrandum of Decision, January 17, 1977, was opinion of District Court. Decision attached herewith.

Jurisdiction

Judgment of Court of Appeals entered February 17, 1978. Petition for Rehearing and for Rehearing en Banc denied April 19, 1978. Order extending time to file petition for certiorari signed by Justice Powell, July 11, 1978,to and including September 16, 1978. Jurisdiction of this Court invoked under 28 U. S. C. Section 1343 (3) (4) and 42 U. S. C. Section 1983.

Questions Presented

1. Did the Complaint state a claim upon which relief could be granted ?

2. Was there any genuine issue of fact in this case ?

3. Does affirmance without opinion by the panel indicate that a visitor from another State, passing through Alabama, without intention of stopping, does not have a right to be reasonably informed of the fact that Marion County is dry?

Statutory Provisions Involved

Federal jurisdiction is conferred by 28 U. S. C. Section 1343 (3) (4). Pertinent parts:

(3) To redress the deprivation, under color of any State law, statute, ordinance, regulation, custom or usage, of any right, privilege or immunity secured by the Constitution of the United States or by any Act of Congress providing for equal rights of citizens.....

(4) To recover damages or to secure equitable or other relief under any Act of Congress providing for the protection of civil rights, ...

The Federal Civil Rights Acts, 42 U. S. C. Sections 1981-1988 provide the statutory bases for this case. Of these statutes, Section 1983 provides:

Every person who, under color of any statute , ordinance, regulation, custom, or usage, of any State or Territory,subjects, or causes to be subjected,any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall

be liable to the party injured in an action at law,suit in equity, or other proper proceeding for redress.

Constitution of the United States.

The Fourteenth Amendment protects deprivations of "life, liberty, or property, without due process of law."

Defendants (1) acted under color of law and (2) subjected petitioner to a deprivation of rights, privileges or immunities secured by the Constitution and/or laws of the United States.

Statement of the Case

Petitioner is a white male citizen of State of Mississippi who was born June 24, 1914.

On night of April 4, 1975, petitioner was driving alone, in his vehicle, from the home of his parents, Conway,Arkansas, to Atlanta, Georgia, to attend a Democratic Party Conference.Petitioner stopped in Hamilton, Marion County, Alabama,for gas and ate supper at the station.Petitioner had been gone from the station for only some five minutes when he was stopped by two unidentified men, both armed, who ordered him out of his car, searched him and his vehicle, refused to identify themselves, forced him back into his car, and then called on their radio to their confederates, who were ahead, to arrest him for being drunk. Petitioner was stopped a second time a few minutes later. Two unidentified men, both armed, ordered him out of his car, searched him, ordered him into their car while one of them took possession of his car. Petitioner was violating no law, had committed no crime, and the officers did not have a warrant to arrest or to search. Petitioner was taken to Winfield, Marion County, where he was forced to submit, against his will and without a court order,

to undergo a Photo Electric Intoximeter test (PEI). The result of the test was 0.06.The officers took petitioner to his car, returned keys and drivers license, and said, "You are lucky. Now hit the road and keep going." Petitioner refused to leave and said, "I am not ready to go. I intend to find out who you are and what this is all about." One of them entered the car, without permission and without a search warrant, found a bottle with a few ounces of liquid in it, and arrested petitioner for illegal possession in a dry county. Petitioner refused to pay a fine or to put up bond money as a matter of principle. Petitioner did not go to jail because he wanted to go to jail.

The next morning petitioner was brought before Mayor Webster, of the little town of Gu-Win.It is located on Highway 78, between towns of Guin and Winfield. Town is so small that family and friends of petitioner had difficulty locating it. The address of the mayor is Route 2, Guin. One of the officers lived in a near by town of Detroit.Petitioner has been unable to obtain an address for the other. Petitioner was told by Mayor Webster that the next day for court would be May 3, 1975, and that there were three options, pay a fine of $117.50; get two property owners in Marion County to sign bond; or go to jail. Petitioner chose jail as a matter of principle.Petitioner was then put into the cage of the police car and left alone for some time. Petitioner was then brought before the Mayor again.This time he was offered a another option, i.e. a $65.00 deal. Petitioner again refused their offer.

Petitioner was returned to Marion County jail, put into a cell, his coat and personal belongings were taken from him by the defendant Sanderson, who did personally take and place petitioner in the cell. Petitioner was unable to make a phone

call until Monday April 7, 1975. Petitioner spent nine days in the cell, with no heat, no coat, the weather was cold, and there were broken and missing glass panes in the windows. Petitioner managed to send word to the Birmingham office of the Federal Bureau of Investigation and they sent an agent to interview him. The Marion County Sheriff received word from Governor George Wallace regarding petitioner and he came to the cell, and unlocked it, and apologized for what had happened. Petitioner was removed to a more comfo rtable cell and,allowed to go to his car, get personal items, etc.Petitioner instituted habeas corpus proceedings in Federal District Court and Marion County Court, each to no avail. April 25, 1975, petitioner was removed from jail to Gu-Win for trial. Outside the jail, while petitioner was locked in cage of police car, defendant Sanderson, in the company of the assistant jailer, did go to and entered the car of petitioner and took a Marine Corp knife from said car. The other policeman, Grant, tried to entrap petitioner into making a confession or statement,that he, i. e., petitioner, had tried to or did threatened to kill him (Grant) with the knife. Petitioner was then shown the tape recorder. Said tape recorder was used during the trial. Petitioner was tried without a jury, without an attorney, and without being able to call witnesses. Petitioner was found guilty of possession of illegal beverages, fined $50.00 plus $15.00 costs and 30 days in jail. Petitioner made bond and appealed to the Marion County Circuit Court. On November 6, 1975, Petitioner appeared for second tim time in Circuit Court and his case was dismissed for want of prosecution.Petitioner obtained bond money but has never obtained his personal property. On April 27, 1976, petitioner filed an action against Town of Gu-Win, Mayor Webster and policemen Grant and Sanderson, in United States District Court for the Northern District of Alabama. On June 30, 1976,

District Court dismissed Town of Gu-Win as defendant.October 7, 1976, pretrial conference held in Jasper, Alabama. Defense counsel admitted for first time that petitioner's story of being "set up" was true and he furnished names of other two policemen involved.January 17, 1977, Court granted summary judgment for defendants.

The basis for federal jurisdiction in the court of first instance:

28 U. S. C. Section 1331. Federal Question; Amount in Controversy;

(a) The district courts shall have original jurisdiction of all civil actio ns wherein the matter in controversy exceeds the sum or value of $10,000, exclusive of interest and costs, and arises under the Constitution, laws, or treaties of the United States, except that no such sum or value shall be required in any such action brought against the United States, any agency thereof, or any officer or employee thereof in his official capacity.

Section 1332.Diversity of Citizenship; Amount in Controversy;

(a) The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of $10,000, exclusive of interests and costs, and is between--

(1) citizens of different states;

Reasons for Granting the Writ

1. Did the Complaint state a claim upon which relief could be granted?

At the very least, the Complaint states, and the Defendants do not deny the fact, that petitioner spent twenty-one days in the Marion County jail, and that he had been convicted of no crime.They deny that petitioner spent nine days in solitary confinement, without heat, without a coat, and with broken window panes. Defendants admit that they took personal property from petitioner and that they have refused to return it. They have neither admitted nor denied the fact that they have refused to give petitioner a receipt for his property. As the District Court articulated in its Memorandum Of Decision:

> "There is some disagreement as to whether defendants Grant and Sanderson stopped the plaintiff or whether they were merely following the plaintiff and he stopped of his own accord."
>
> (Memorandum, page 2)

See Moore's Federal Practice, 2nd Edition Par. 56.27(1), pp. 56-1554-1559."The moving party has the burden of clearly establishing the lack of a triable issue of fact upon a record that is adequate to the legal issue presented; his moving papers are carefully scrutenized while those of the opposing party are indulgently regarded." Moore's Federal Practice, supra, p.56-1556.

The Complaint states the whole case was tainted because the evidence had come from material obtained in an illegal search and seizure.

Searches and seizures conducted in viola- of the Fourth and Fourteenth Amendments are actionable under the Civil Rights Act.Monroe v. Pape,365 U.S. 167 (1961);Fisher v.Volz, 496 F.2d 333 (3rd Cir.) (1974); Lankford v. Gelston, 364 F.2d 197 (4th Cir.) (1966); Lykken v. Vavreck,366 F. Supp. 585(D. C. Minn.) (1973); Lynch v. Household Finance Corp., 405 U.S. 538 (1972).

In Fisher v. Volz, supra at 341, the Court stressed the significance of the Fourth Amendment's protections:

> High on the list of constitutional rights is the right of an innocent citizen to be free from unreasonable intrusion into the privacy of his home. A warrant for the arrest of a suspect may indicate that the police officer has probable cause to believe the suspect committed a crime;it affords no basis to believe that the suspect is in some stranger's home. Permitting reliance by the officer solely on exigent circumstances offers too many opportunities for abuse, provides little comfort to a citizen peacefully in his home, and affords insufficient protection against invasions of his privacy. A requirement that the officer must also have probable cause to believe that the suspect is in the dwellingwill not unduly restrict the effectiveness of police action but will reduce the obvious risks of abuse.It offers police considerable latitude but also requires a necessary amount of restraint.It should enable the police

to act reasonably but not oppressively, promptly but not recklessly, lawfully but not offensively.

> Law observance by the police cannot be divorced from law enforcement. When official conduct feeds a sense of injustice, raises barriers between the department and segments of the community, and breeds disrespect for the law, the difficulties of law enforcement are multiplied.
> Lankford v. Gelston,364 F.2d at 204.

The deliberate denial of counsel,absent an intelligent and voluntary waiver, is a deprivation of rights guaranteed by the Sixth and Fourteenth Amendments, and is also actionable under the Civil Rights Act. Wounded Knee Legal Defense/Offense Committee v. F. B. I., 507 F.2d 1281(8th Cir.1974);Williams v. Liberty,461 F.2d 325(7th Cir.1972).

Petitioner alleges an action for false arrest and detention for violations of the Fourth and Fourteenth Amendments and under Section 1983.Street v.Surdyka,492 F.2d 368 (4th Cir.1974);Martin v.Duffie, 463 F.2d 464 (10th Cir.1972);Monroe v. Pape, 365 U.S. 167 (1961).Also, alleges deprivation of rights, privileges, or immunities secured by the Fourth Amendment and Section 1983.Anderson v. Nosser, 456 F.2d 835 (5th Cir.1972);Hileman v. Knable, 391 F. 2d 596 (3rd Cir.1968). Petitioner points out and alleges that even though he was not "formally" arrested by the first policemen, there was a limitation of the freedom of his movement, and a violation of the Fourth Amendment.Terry v. Ohio, 392 U. S. 1 (1968).

Petitioner alleges that there was a conspiracy on the part of Marion County law-enforcement officers to convict him by the knowing use of perjured testimony. Petitioner alleges that the truth is that he was "set up", stopped, searched, because the officers were looking for drugs.Petitioner alleges that the day after he was arrested, a search warrant was made out and signed by Mayor Webster. The warrant was defective in several ways but primarily because it was not signed by anyone except Mayor Webster and Policeman Grant. The vehicle was not present at the time the warrant was made out and signed. Vehicle was then brought to the area and searched under the supervision of Mayor Webster. Petitioner observed the search and realized that they were really looking for drugs. During petitioner-'s twenty-one day incarceration he had ample opportunity to study the operation of the jail and to observe the Marion County law enforcement officials.At pretrial hearing, Jasper, Alabama, October 7, 1976, petitioner did attempt to tell the Court these facts. The Court was not interested and only said, "Perhaps".The Court elided this point from its Memorandum of Decision.Petitioner has said and does say that truth should be brought into the courtroom. Petitioner alleges that the knowing use of false testimony by the prosecution against an accused in a criminal trial offends fundamental fairness and constitutes a denial of due process of law. Miller v. Pate, 386 U. S. 1 (1967); Napue v. Illinois, 360 U. S. 264 (1959).

2. Was there any genuine issue of fact in this case?

Many hard questions appear in this case. History, justice, and the integrity of our judicial system demand that they be fully answered.

Was the search of petitioner's car, without a search warrant, at nighttime, without his consent, in Town of Winfield, a legal search and seizure?Petitioner says No.The paradox of the exclusionary rule was described sardonically by the late John Wigmore, dean of the Northwestern University Law School and the author of the leading treatises on the law of evidence:

> Our way of supporting the Constitution is not to strike at the police officer who breaks it but to let off somebody else who broke something else.

Is there a conflict between the Fourth Amendment and the Implied Consent Law of State of Alabama?Petitioner contends that he was faced with a Hobson's choice situation, i.e., he had no choice. If he did not take the test he was drunk. Petitioner contends that the PEI test was an invasion of his privacy and also an illegal search of his body. "The Fourth Amendment protects people, not places". Katz v. U. S., 389 US 347, (1967)

Were petitioner's rights violated when his Miranda rights were not read and explained to him?Petitioner alleges that not even lip service was paid to these rights.Petitioner alleges that the two arresting officers did not know of any

such rights.Petitioner alleges that the Miranda decision was based upon constitutional interpretation. Miranda v. Arizona 384 U. S. 436 (1966).

3.Does affirmance without opinion by the panel indicate that a visitor from another State, passing through Alabama, without intention of stopping, does not have a right to be reasonably informed of the fact that Marion County is dry?

Petitioner alleges that it took him two years to obtain information from Alabama officials regarding this matter. There are 67 counties in Alabama "of which 30 are dry".The State of Alabama spends money to attract tourists but nowhere could petitioner find any mention of the fact that certain counties had "peculiar dry laws" and that the innocent traveler should proceed with care. Petitioner checked the Official State Highway Map for visitors and the booklet for tourists.Petitioner also checked the Welcome to Alabama signs at four different places. Not one word of warning or caution was found.

CONCLUSION

For the above reasons, a Writ of Certiorari should issue to review the judgment of the Fifth Circuit, and to award petitioner a reasonable attorneys fee.

Respectfully,

Billie V. Bush
Pro Se

842 Oakleigh Avenue
Gulfport, Mississippi
39501
Telephone 601-
896-4620

CERTIFICATE OF SERVICE

I, Billie V. Bush, attorney pro-se for the petitioner, do hereby certify that I have this day mailed three true and correct copies of the above and foregoing Petition For Writ of Certiorari, to the Honorable Jerry Guyton, Counsel for Defendants Mayor Ray Webster, ET AL, at his usual business address, Box 82, Hamilton, Alabama 35570. This the 14 day of September 1978.

Billie V. Bush
Pro Se

IN THE

Supreme Court of the United States

October Term, 1978

No. 78-631

BILLIE V. BUSH

Petitioner

v.

MAYOR RAY WEBSTER, Et Al.,

APPENDIX

BILLIE V. BUSH
PRO SE
842 Oakleigh Avenue
Gulfport, MS 39501

Telephone: 601/896-4620

APPENDIX

APPENDIX

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ALABAMA
JASPER DIVISION

BILLIE V. BUSH,
PLAINTIFF,
VS. CA76-H-595-J

MAYOR RAY WEBSTER, CHIEF OF POLICE JOHNNEY GRANT, POLICEMAN OLIN A. SANDERSON,
DEFENDANTS.

MEMORANDUM OF DECISION

This cause came to be heard at the pretrial hearing conducted in Jasper, Alabama, on October 7, 1976. At that time, counsel for defendants indicated a desire to file a motion for summary judgment and plaintiff stated that he would be able to respond by counter affidavits and related material. On October 26, 1976, defendants filed a motion for summary judgment with supporting affidavits. By order of this court on November 1, 1976, a filing schedule was issued which has been complied with by both parties. This matter was deemed submitted to this court for decision on December 14, 1976, by the November 1, 1976 order. The court has considered the complaint, the answer, defendants' motion for summary judgment, the affidavits of each of the four named parties, the plaintiff's answer to the motion for summary judgment, the affidavits of each of the four named parties, the plaintiff's answer to the motion for summary judgment, plaintiff's motion for discovery, and defendants answer to the motion for discovery, and is of the opinion that the motion for summary judgment for the defendants is due to be granted.

The plaintiff commenced this action on April 27, 1976, challenging the legality of the events which transpired on the night of April 4, 1975, and the subsequent 21 days resulting from plaintiff's arrest for violating the prohibition law.On the night in question plaintiff was driving through Marion County, Alabama, on Highway 78 en route to Atlanta, Georgia. There is some disagreement as to whether defendants Grant and Sanderson stopped the plaintiff or whether they were merely following the plaintiff and he stopped of his own accord.In any event, defendants Grant and Sanderson charged plaintiff with driving while intoxicated and transported the plaintiff to the police station in the city of Winfield in Marion County to give the plaintiff a Photo Electric Intoximeter test (PEI).The results of the test were 0.06, which falls within the middle category of test results described in Alabama Code, Title 36, Sec.155 (1973 Cum.Supp.) which would neither give rise to a presumption that the plaintiff was under the influence of intoxicating liquor. Alabama law allows a finding of 0.06 to"be considered with other competent evidence in determining whether the person was under the influence of intoxicating liquor." Although it was in their discretion to detain plaintiff further, as articulated by this statute, defendants Grant and Sanderson decided to let plaintiff go free--however,plaintiff refused to leave. As plaintiff himself narrates in his affidavit,after defendants Grant and Sanderson learned of the results of the PEI:

> "The one who appeared to be the leader (Grant) returned to me my keys,drivers license, and said, 'You are lucky.Now hit the road and keep going.' I said, ' I am not ready to go. I intend to find out who you are and what this is all about.' "
>
> (Bush affidavit,page 4)

After some discussion plaintiff was arrested for violation of the prohibition law for the possession of an open nontaxed Alabama wine bottle in the passenger area of his vehicle.Plaintiff was then told he could put up $117.50; get two property owners in the county to sign his bond; or,he could go to jail.Plaintiff chose the latter alternative.

The next morning, at (9:00A. M.,plaintiff was brought before defendant Webster and was told that the next day for city court for the town of Gu-Win would be April 25, 1975. Plaintiff was given the option of putting up $65 cash bond and returning in 30 days for the trial.This plaintiff refused to do even though he had cash in excess of this amount in his possession. Instead, plaintiff chose to return to jail to await his trial.Defendant Webster stated that on April 8,1975, three days after plaintiff's arrest, he went to see plaintiff in the Marion County jail. When plaintiff again refused to post $65 bail,defendant Webster then advised plaintiff that he could sign his own bond and go home. Again the plaintiff refused to leave the jail.Plaintiff does not refute this sworn statement of defendant Webster, and states in his own affidavit that on or about April 23, 1975, the defendants Webster and Grant "urged me to

leave the jail,under any bond terms I wanted, but I would have to come back for trial on May 3,1975. I refused their offer..." (Bush affidavit, page 11)The trial of the plaintiff was held April 25, 1975.Plaintiff was convicted.He was fined $50, ordered to pay $15 court costs and sentenced to 30 days in jail.The fine, the costs and the jail sentence were suspended and plaintiff was informed that he was free to go.Plaintiff indicated a desire to appeal his conviction to the Circuit Court of Marion County.When plaintiff was returned to the Marion County jail to pick up his belongings, plaintiff indicated that he wanted to remain in jail until his appeal was heard.The Sheriff of Marion County allowed plaintiff to stay one more night in the Marion County jail since it was after 5:00 P. M. and plaintiff did not have anywhere to stay that night,but also told plaintiff that he must leave the next morning.Plaintiff spent the night of April 25th in Marion County jail and left the next morning around 8:00 A. M.

It is unquestioned that the plaintiff's 21 -day stay in the Marion County jail was due to plaintiff's own refusal--not inability--to post a bond.Indeed, the facts show a concern for plaintiff's well being by the defendants as evidenced by their frequent visits to check on plaintiff in Marion County jail, in Hamilton, several miles from Gu-Win. Plaintiff instituted habeas corpus proceedings in Marion County Circuit Court and in this court (Ca75-A-462-J), each to no avail. Plaintiff's case was also investigated by Special Agent H. H. Willis from the Birmingham office of the Federal Bureau of Investigation which would indicate any wrongdoing by any of the defendants. Also, an examination of plaintiff's request for habeas corpus with this

court discloses no new evidence which would indicate that this summary judgment should not be granted.

For the foregoing reasons, the court is of the opinion that there is no genuine issue as to any material fact and that the defendants are entitled to summary judgment as a matter of law. An appropriate order will be entered.

DONE this 17th day of January, 1977.

James H. Hancock
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ALABAMA
JASPER DIVISION

BILLIE V. BUSH,
PLAINTIFF,
VS. CA76-H-595-J
MAYOR RAY WEBSTER,CHIEF OF
POLICE JOHNNEY GRANT,
POLICEMAN OLIN A. SANDERSON,
DEFENDANTS.

ORDER GRANTING SUMMARY JUDGMENT

In accordance with the Memorandum of Decision entered this day, it is hereby

ORDERED, ADJUDGED AND DECREED THAT the defendants' motion for summary judgment is GRANTED and that plaintiff Billie V. Bush have and recover nothing from the defendants Ray Webster, Johnney Grant and Olin A. Sanderson.Costs are taxed against the plaintiff.

DONE this 17th day of January, 1977.

James H. Hancock
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 77-1317
Summary Calendar

BILLIE V. BUSH,
Plaintiff-Appellant,

versus

Mayor Ray Webster, Et Al.,
Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Alabama

(February 17, 1978)

BEFORE THORNBERRY, RONEY AND HILL,CIRCUIT JUDGES.

PER CURIAM: AFFIRMED. See Local Rule 21.[1]

It IS FURTHER ORDERED that appellant's pro se motion to return property is DISMISSED for want of jurisdiction.Appellant did not seek such relief in the district court as part of his claim under 42 U. S. C. Section 1983, even under a most liberal reading of his complaint. As a result, the motion is before this court as an original matter,and in such posture we lack jurisdiction.See 28 U. S. C. Section 1651; Anderson v. Beto, 469 F.2d 1076 (5 Cir. 1972); Lamar v. 118th Judicial Dist.Court, 440 F 2d 383 (5 Cir. 1971).[2]
Costs are taxed against plaintiff-appellant

*Rule 18, 5 Cir.,see Isbell Enterprises, Inc. v. Citizens Casualty Co. of New York, et al., 5 Cir. 1970, 431 F 2d 409, Part 1.
1 See N.L.R.B. v. Amalgamated Clothing Workers of America, 5 Cir. 1970, 430 F.2d 966.

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

NO. 77-1317

BILLIE V. BUSH,
PLAINTIFF-APPELLANT,

versus

MAYOR RAY WEBSTER, ET AL.,
DEFENDANTS-APPELLEES.

* - - - - -

Appeal from the United States District Court
for the Northern District of Alabama

- - - - - -

ON PETITION FOR REHEARING AND PETITION FOR REHEARING EN BANC

(Opinion 2/17/78,5 Cir., 197 , F.2d)
(April 19, 1978)

Before THORNBERRY, RONEY AND HILL,Circuit Judges.

Per CURIAM:

(X) The Petition for Rehearing is DENIED and no member of this panel nor Judge in regular active service on the Court having requested that the Court be polled on rehearing en banc, (Rule 35 FRAP; Local Fifth Circuit Rule 12) the Petition for Rehearing En Banc is DENIED.

ENTERED FOR THE COURT:

Homer Thornberry

United States Circuit Judge

TOWN OF GU-WIN
vs.
BILLIE V. BUSH

No. 9430
IN THE CIRCUIT COURT
OF MARION COUNTY,Ala.

ORDER

This being the day heretofore set for hearing any motion and for trial of this cause, this case being called and the Defendant, Billie V. Bush, appears in person and the Town of Gu-Win, being called, made no appearance, and the Court considering all of the documents filed in this cause, now upon consideration of the foregoing,

IT IS ORDERED, ADJUDGED AND DECREED that the Town of Gu-Win has abandoned the prosecution of this cause, and this cause is hereby dismissed for want of prosecution, and the Defendant shall not be required to further answer or appear, and is entitled to reimbursement of any cash bond he may have made.

Done this the 6th day of November, 1975.

Carlton Mayhall, Jr.
JUDGE

cc: Billie V. Bush
Town of Gu-Win
Quentin Brown, 1327 City Federal Bldg.
Birmingham, 35203

I, Billie V. Bush, attorney pro-se for the petitioner, do hereby certify that I have this day mailed three true and correct copies of the above and foregoing Appendix to the Honorable Jerry Guyton, Counsel for Defendants Mayor Ray Webster, ET AL, at his usual business address, Box 82, Hamilton, Alabama 35570.
This the 26 day of September, 1978.

Billie V. Bush
Pro Se